ANDOVER CONSERVATION COMMISSION MEETING MINUTES MARCH 18, 2104

Town of Andover 36 Bartlet Street 3rd Floor Conference Room 7:45pm

Conservation Members in Attendance:

Chairman Donald Cooper, Commissioner Kevin Porter, Commissioner Alix Driscoll, Commissioner Phil Sutherland, Commissioner Floyd Greenwood and Commissioner Jon Honea. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

Parallel Tracking

Present in Interest: David Brown, Chairman ZBA

Discussion regarding parallel tracking of permits between boards. Mr. Brown would like Applicants to file for permits simultaneously with Conservation and the Zoning Board of Appeals. The sharing of information between the boards is an important step in granting Special Permits and Variances. The deadlines for hearings and decisions for the Conservation Commission are much shorter than the Zoning Board of Appeals, so we could provide the Zoning Board of Appeals with our decision. Applications should be reviewed by Conservation when filed with the Zoning Board of Appeals if there are wetlands on the property.

Bancroft Road, Chandler Road, Highland Road and River Road Present in Interest: Robert Musci and Magdalena Lofstedt, Frank Maldari and Michele Maldari

Staff Recommendation: Approve as Pos.2b, Pos.5 and Neg.3

Public Hearing on a Request for Determination of Applicability filed by the Town of Andover under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed water main improvements at Bancroft Road, Chandler Road, Highland Road and River Road.

Agent Cleary presented this to the Commission. The filing is under both the WPA and the By-Law. Waivers have been requested due to the nature of the work within existing roadways. Waivers include work within the 25 foot non-disturb areas, 100 foot buffer zone and 200 foot

Riverfront Area, property dimensions, unstamped plans, tree line, fences, walls, steps, distances from proposed work to resource areas, etc. The wetland line looks visibly correct, but staff is not ruling on the boundaries due to snow cover and frozen conditions. The filing is under the Bylaw because of the increase in pipe size and work in existing roadway.

Rob Musci presented the project on behalf of CDM. The improvements proposed are an increase in pipe size and upgrade of water lines which are about 6600 linear square feet. There are also 2 new water mains which will create water loops in River Road. CDM considers this a maintenance project.

Magdalena Lofstedt presented the wetlands portion of the project to the Commission. The work on Bancroft Road is outside the buffer zone and not jurisdictional. The work on Chandler Road runs from Route 495 to Beacon Street ending just outside the 200 foot Riverfront Area. The work on Highland Road runs from Salem Street to Woodland Road. There is an intermittent stream and work within the 25 foot non-disturb and 100 foot buffer. Special insulation and piping will be used to make sure the pipe does not freeze or be damaged by truck traffic since the pipe will be installed 3 feet down instead of 5 feet down due to the existing culvert and pipes at Rogers Brook.

A new 12 inch water main will run from Pleasant Run to Avery Lane.

Commissioner Porter questioned who would monitor the project for restoration of the temporary impact. CDM and the Town Engineer will monitor the project and provide staff with reports. Work to begin in June and finished by September/October. Final paving will be the following spring.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve as Pos.2b, Pos.5 and Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

85 Porter Road

Present in Interest: John Dick and Brian Charron

Staff Recommendation: Issue Enforcement Order and Continue to Date Uncertain.

Continued Public Hearing on a Notice of Intent filed by **Brian Charron** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection Bylaw, Article XIV, for proposed reconstruction of an existing dwelling and removal of existing pool at **85 Porter Road.**

Mr. Douglas presented this to the Commission. This was continued from March 4, 2014 at Applicant's request. The site visit was conducted and following the site visit, the Applicant demolished the existing home. The Building Department did grant permission, however the Conservation Department did not. This is work within the buffer zone immediately adjacent to a flagged resource area. Sedimentation controls are in disrepair and are completely ineffective. There is loose soil and construction debris with no protective barrier. The Applicant has submitted revised plans, however they clearly show work within the 50 foot no disturb area and there is no case of hardship provided. This is now a By-Law project for work within the buffer

zone. This work should have been done upon issuance of the Order of Conditions, not during the review period. Staff observed large dirt piles near the wetland and a toppled chimney above the intermittent stream with no protection.

Staff recommends an Enforcement Order be issued to stabilize the site and cease all work until the site is stabilized and the correct paperwork is filed with the office.

John Dick spoke to the stabilization of the sedimentation control and that will be taken care of on Wednesday by placing stones on the siltation since the ground is frozen.

Chairman Cooper inquired if staff has considered fines.

John Dick presented a revised plan to the Commission pointing out the mitigation being done on the site in consideration of the encroachments into the 50 foot no-build area and the plantings along the garage post the line, not meeting the 25 foot non-disturb area. The foundation remains and will be reused.

Chairman Cooper pointed out that the existing house shown on the plan is not the current condition of the site now.

Commissioner Honea acknowledged the additional driveway was removed on the revised plan, however he is unhappy with the removal of the house.

Commissioner Porter restated that the new house will be subject to the By-law and the porch can be modified to not encroach within the 50 foot no-build area.

Commissioner Driscoll stated that no compelling reason was presented to have a 3rd bay of the garage within the 25 foot non-disturb area.

Commissioner Greenwood noted the garage goes further than the Commission would allow and it needs to get out of the 25 foot no-disturb area.

Chairman Cooper stated that with the mitigation proposed, he is inclined to allow the reuse of the foundation, however no building within the 25 foot non-disturb area. The edge of the house is 41.5 feet from the no-build area. He would consider allowing the porch to be constructed, but does not encroach further than the edge of the house at 41.5 feet. This essentially a new house, but we do not allow a new house to be built within the no-build area.

Commissioner Greenwood made a Motion to issue the Enforcement Order, withholding fines; it was seconded by Commissioner Driscoll and unanimously approved.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to continue to April 15, 2014; it was seconded by Commissioner Greenwood and unanimously approved.

87 Porter Road

Present in Interest: John Dick and Brian Charron

Staff Recommendation: Issue Enforcement Order and Continue to a Date Uncertain.

Continued Public Hearing on a Notice of Intent filed by **Brian Charron** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection Bylaw, Article XIV, for proposed construction of an addition at **87 Porter Road.**

Mr. Douglas presented this to the Commission. This was continued from March 18, 2014 at the Applicant's request. The Application received by staff was for an addition and raising the roof, however the builder contracted for a new home. The existing house has been demolished and a new home is under construction. A Notice of Intent needs to be filed for a new dwelling, not just

an addition and roof raising. Upon site visit today, staff found erosion controls ineffective and laying on the ground. Staff recommends issuing an Enforcement Order and Cease and Desist until sedimentation control installed properly and Application for new dwelling received. At this time, the Applicant is working without a permit within a jurisdictional area. Commissioner Porter agreed that the Enforcement Order should be issued with the Cease and Desist because they are working without a permit.

Commissioner Honea made a Motion to Issue the Enforcement Order and Cease and Desist Order; it was seconded by Commissioner Greenwood and unanimously approved.

John Dick presented the revised project to the Commission. The existing garage is 10 feet into the non-disturb area. The proposed deck will be built on 3 sona tubes 36 feet from the resource area. The lawn area to the rear of the property will be allowed to be returned to natural vegetation as a buffer. Most of the house is outside the 50 foot no-build area. There is an existing doorway in the foundation which will remain the main entrance to the home with decking within the 50 foot no-build area.

Staff needs an amended application under by By-Law for the construction of a new house with revised plans.

Commissioner Porter requested revised plans depicting the correct existing conditions and proposed conditions.

Commissioner Greenwood requested the front door be moved outside the 50 foot no-build area. Also, the mitigation was presented at a previous hearing before the dwelling was torn down so the builder should not be given credit for any mitigation at this time. The applicant should not be given credit for doing something he was not supposed to do.

Commissioner Honea is concerned that the Commission could be setting precedence with existing foundations within the 25 foot non-disturb area.

Chairman Cooper recommended the Applicant consider the importance of the porch within the 50 no-build area and the alternatives available. Chairman Cooper allowed the Applicant to "button up" the structure for safety and weather. This includes NOT installing any materials, such as doors and windows, merely making the structure weather tight and safe.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to continue to April 15, 2014; it was seconded by Commissioner Honea and unanimously approved.

Town of Andover Conservation Commission Wetland Protection Regulations Building/Structure Setbacks for Solar Panels.

Present in Interest: Tara Wilson

Staff Recommendation: Approve Regulation for Solar Panel Setbacks.

Public Hearing on the Regulations Adopted by the Andover Conservation Commission Pursuant to the Town of Andover's General Bylaw for Wetland Protection, Section 4(3) **Building/Structure Setbacks** under Article XIV, Andover Wetlands Protection By-Law, to enact the following change for the purpose of clarifying the setbacks of solar panels under Section 4(3) Building Structure Setbacks "Building/Structure 7".

Mr. Douglas presented this to the Commission. Staff recommends the solar panels be supported by columns with an open and vegetated area beneath them. Staff also recommended solar panels with Area "A" have a 30 foot setback; Area "B" (Watershed Protection) have a setback of 55 feet; and Area "C" (Vernal Pool) have a setback of 80 feet. Solar panels with gravel or paving or enclosed areas beneath them must meet the regular structure setbacks of 50 feet, 75 feet and 100 feet.

Commissioner Greenwood asked that the Commission set a maximum contiguous area to be covered by the solar panels. For example, no solar panel shall be larger than 4'x8'. Commissioner Sutherland stated that these regulations only apply to homeowner projects, not large, commercial solar projects.

There was discussion of limiting total coverage within a buffer zone. All were in agreement with the distances for the setbacks.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to continue to April 1, 2014; it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

3000 Minuteman Road

Present in Interest: John Hall

Staff Recommendation: Issue Order of Conditions.

Issue Order of Conditions. The size of the project has been reduced to 1600 panels and 500 kilowatts. 4 of the panels touch the 200 foot Riverfront Area and between 8 and 10 panels are within the 100 foot buffer. All panels will be low growth grass underneath and the panels will be 10"-24" off the ground.

Commissioner Sutherland made a Motion to Issue the Order of Conditions; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of minutes from March 4, 2104.

120 Abbott Street

Issuance of a Satisfactory Completion of Work Certificate

Commissioner Sutherland a Motion to Approve the Consent Agenda; it was seconded by Commissioner Driscoll and unanimously approved.

LATE/DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:

70 Andover Street

Ratify Emergency Certification for beaver dam breach.

Commissioner Greenwood made a Motion ratify the Emergency Certification; it was seconded by Commissioner Porter and unanimously approved.

Streamline Permitting

Final recommendations for streamline permitting. Chairman Cooper will let staff use discretion in accepting incomplete applications. Unanimously agreed that the applications that comply with our regulations move swiftly through the process compared to those that do not.

MACC Guide

Authorize payment from the By-Law Filing Fee Account to purchase updated MACC Guide to the WPA and Local By-Laws available as an eBook online.

Commissioner Greenwood made a Motion to approve the purchase; it was seconded by Commissioner Driscoll and unanimously approved.

Reichhold Parcel II

Vote to accept and execute the Deed for Reichhold Parcel II wetland areas.

Commissioner Honea made a Motion to approve the Deed and execute; it was seconded by Commissioner Driscoll and unanimously approved.

The next meeting will be held April 1, 2014 at 7:45pm.

The meeting was adjourned at 10:00 pm by Motion of Commissioner Driscoll and seconded by Commissioner Sutherland and unanimously approved.

Respectfully submitted by,

Lynn Viselli, Recording Secretary